IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE: **MAURICE DELL JONES** **DIANNE F HOLMES JONES,** DEBTORS.	**Case No.: BK-13-11956-M** **Chapter 13**

RESPONSE TO TRUSTEE'S AMENDED MOTION OBJECTING TO AND DISAALOWANCE OF THE MORTGGAE ARREARAGE OF THE BANK OF NEW YORK MELLON TRUST COMPANY/OCWEN LOAN SERVICING, LLC

Comes now the secured creditor, THE BANK OF NEW YORK MELLON TRUST COMPANY, NATIONAL ASSOCIATION FKA THE BANK OF NEW YORK TRUST COMPANY, N.A. AS SUCCESSOR TO JPMORGAN CHASE BANK, NA., AS TRUSTEE FOR RAMP 2004-RS11 (hereinafter, "Bank of New York"), by their attorney, Robert J. Hauge, and responds to Amended Objection to Claim Number 12 filed by the Debtor on October 06, 2014:

1. Bank of New York is the holder of a purchase money note and mortgage on the Debtor's residence (the "Property"). As the holder of the note and mortgage Bank of New York Mellon is a secured creditor. The Bank of New York has a judgment of foreclosure against the Debtors and the subject property in the case styled *The Bank of New York Mellon Trust Company, National Assocaition FKA The Bank of New York Trust Company, N. A. As Successor to JPMorgan Chase Bank, N.A. as Trustee; v. Maurice D. Jones et al.* CJ-11-07647 in The District Court In And For Tulsa County, State of Oklahoma.. A proof of claim has not been filed for this secured debt.

2. The Debtors desire to preserve their residence and cure the default which is the subject of the judgment of foreclosure. The Debtors have secured an Order Confirming Plan that provides for the direct payment of the ongoing monthly mortgage payment and the cure of an estimated $47,000 arrearage claim on the note and mortgage on their primary residence. Under Title

11 U.S.C. §1327 the Debtors and the Creditors are bound by the terms of the confirmed plan. "The confirmation of a Chapter 13 plan is a collective and omnibus proceeding, one that attempts as much as possible, to address the obligations of a debtor to all of his or her creditors, and the priority among those creditors, at once. It would be unusual and unworkable for the order that confirms such a plan to bind the debtor and the creditor but not also the trustee." *Hope v. Acorn Financial, Inc.* 731 F.3d 1189 (11th Cir. 2013). The Debtor, Creditor and Trustee should be bound by the terms of the confirmed plan. The request to disallow the arrearage portion of the claim of the creditor should be denied.

The Trustee through this Motion is seeking to impact or modify the rights of the secured creditor with a secured interest in the real property which is the principal residence of the Debtors. The Debtors would be prohibited from modifying the secured claim by 11 U.S.C. §1322 (b)(2) within the terms of the plan. The Trustee should not be allowed to modify the terms of the secured interest through the objection process.

3. The Trustee has taken the position that the mortgage arrearage has been abandoned and therefore should be disallowed and distributed to other creditors under the plan. Bank of New York has not abandoned its arrearage claim in this proceeding. Bank of New York has obtained a judicial determination of the default under the note and mortgage. Bank of New York had pursued the termination of the automatic stay and abandonment of this property in this bankruptcy proceeding and entered into an agreed order to continue the administration of this case. Finally, the confirmed plan of the Debtors specifically provides for the payment of the ongoing monthly mortgage to Bank of New York and the estimated pre-petition arrearage claim. The status of Bank of New York is not unclear and has been judicially determined. The Debtors have an obligation for the ongoing monthly mortgage payment and have made payments toward the arrearage to the Trustee. The disallowance of the arrearage claim for the secured creditor would be inequitable and

unfair. Bank of New York would request the opportunity to seek leave of court to file its proof of claim.

WHEREFORE, PREMISES CONSIDERED, BANK OF AMERICA, N.A. prays this Court deny the Objection; and for such further relief as this Court deems appropriate.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, NATIONAL
ASSOCIATION FKA THE BANK OF NEW
YORK TRUST COMPANY, N.A. AS
SUCCESSOR TO JPMORGAN CHASE BANK,
NA., AS TRUSTEE FOR RAMP 2004-RS11,

By: s/ Robert J. Hauge__________________

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CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the above and foregoing Response with postage thereon fully prepaid to the parties listed below on November 7, 2014.

Maurice Dell Jones
Diane F. Holmes Jones
14142 E. 11th St.
Tulsa, OK 74108

The following persons should have received notice of the above and foregoing instrument on the same day it was filed by the Court's CM/ECF Electronic Noticing System.

Lonnie D. Eck
P.O. Box 2038
Tulsa, OK 73401

Brian W. Huckabee, Esq.
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By: s/ Robert J. Hauge__________________
Robert J. Hauge